

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

In re Patent Application of

Paul Giampavolo

Serial No.: 10/676,412

Filed: September 30, 2003

For: PALLET GUARD

Confirmation No.:8071

Date: May 29, 2009

Group Art Unit:3637

Examiner: Jose V. Chen

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**VIA EFS-WEB**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**REPLY BRIEF**

Sir:

This reply brief is submitted in response to the Examiner's Answer. In the Answer, the Examiner says that Heuss et al. has been used as a secondary reference showing a wedge shape base. The Examiner says it would be obvious to combine the Heuss base with the pallet guard of Giampavolo Canadian Patent Application No. 2,375,246.

The Examiner's combination ignores the plain fact that the Heuss et al. stacker base does not show or suggest a pallet guard as claimed wherein the bottom portion is wider than the top portion making each modular guard section substantially wedge or triangular shaped in cross section to increase the stability of the guard section. In fact, Heuss' stacker sections are not wedge or triangular shaped as claimed. They have a complex shape including a flat floor bearing extension 25, 26 with unitary walls 27, 28 extending vertically upward therefrom with cap walls 29, 30 that are unitary and downwardly angulated stiffener wall members 31,32. See column 2, lines 47-55. Heuss does not disclose or suggest a triangular or wedge shaped modular section. Heuss requires floor bearing sections 25,26 upon which the stacked materials rest for stability.

There is no teaching or suggestion in Heuss et al. of a pallet guard that is not disposed below the pallet or goods stacked on the pallet. If Heuss et al. is combined with Giampavolo, the result is an unuseful item that includes flat floor-bearing extensions that are

designed to be disposed beneath the pallet being protected. The combined Giampavolo/Heuss device does not meet or suggest the claimed “guard for protecting the sides of a pallet.” The Giampavolo/Heuss combination is a device that requires a flat floor bearing extension that extends under the pallet or merchandise being protected. This would not be a useful product because it could not be provided around an already existing pallet or merchandise that is disposed on the floor without requiring raising of the pallet and merchandise off the floor to place the pallet guard.

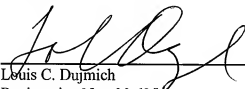
Furthermore, the combination of Giampavolo and Heuss fails to teach or suggest a pallet guard wherein at least one of the guard sections has an outwardly facing surface having an area configured to received a removable signage member, the area including a recessed surface for receiving the signage member such that a back surface of the signage member lies substantially adjacent to the recessed surface and wherein the signage member has one or more tabs along an outer peripheral edge thereof and the recessed surface has one or more slots along an outer peripheral edge thereof and wherein the slots of the recessed surface receive the tabs of the signage member to hold the signage member in position. See claim 14. Nor does the combination of Giampavolo and Heuss teach or suggest a pallet guard wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member, see claims 21 and 25.

In conclusion, Appellants submit that the combination of Giampavolo and Heuss, as made by the Examiner, does not teach or suggest the claimed invention. Accordingly, Appellants submit that the Examiner’s rejection of the claims should be reversed.

Respectfully submitted,

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## **CLAIMS APPENDIX**

The Claims on Appeal Are:

1. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section; and the guard sections each having a complementary portion of a joint for coupling the sections together.

2. The guard of claim 1, wherein the complementary portions of the joint allow the guard sections to be coupled together to form a corner or in a straight line.

3. The guard of claim 2, wherein the complementary sections of the joint allow the guard section to be arranged at any angle between and including 90° and a straight line.

4. The guard of claim 2, wherein the complementary joint sections comprise a projection on one guard section and a recess in another guard section.

5. (withdrawn) The guard of claim 3, wherein the complementary joint sections comprise a pivotal connection.

6. The guard of claim 1, further comprising signage on an outwardly facing surface of at least one guard section.

7. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard

section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section, the guard sections each having a complementary portion of a joint for coupling the sections together, wherein the modular guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section.

8. (withdrawn) The guard of claim 1, wherein the joint comprises a joint member coupled to adjacent guard sections, the joint comprising a live hinge.

9. The guard of claim 1, wherein the joint comprises a fixed corner section providing a 90° corner, the fixed corner section being removable to allow adjacent guard sections to connect with each other in an in-line configuration.

10. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section having top and bottom portions disposed between front and back portions and being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having a substantially wedge or triangular shape in cross section to increase the stability of the guard section; the guard sections each having a complementary portion of a joint for coupling the sections together; and

wherein the modular guard sections have a rear face facing the pallet or merchandise grouping that is vertically oriented when the guard is arranged on a support surface, and a front surface that is slanted such that a distance between the front and rear surface at the bottom is greater than the distance between the front and rear surface at the top.

11. The guard of claim 7, further comprising a detent mechanism for holding the two telescoping members in a detented relationship when a desired adjustment of the length has been attained.

12. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping, each modular guard section having top and bottom portions disposed between front and back portions, a substantially wedge or triangular shape in cross section to increase the stability of the guard section, and a complementary portion of a joint for coupling the sections together,

wherein at least one of the guard sections has an outwardly facing surface having an area configured to receive a removable signage member.

13. The guard of claim 12, wherein the area comprises a recessed surface for receiving the signage member such that a back surface of the signage member lies substantially adjacent to the recessed surface.

14. A guard for protecting sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each modular guard section being couplable to an adjacent modular guard section for surrounding at least a portion of a perimeter of a pallet or merchandise grouping, each modular guard section having a complementary portion of a joint for coupling the sections together,

wherein at least one of the guard sections has an outwardly facing surface having an area configured to receive a removable signage member, the area including a recessed surface for receiving the signage member such that a back surface of the signage member lies substantially adjacent to the recessed surface,

the signage member having one or more tabs along an outer peripheral edge thereof and the recessed surface has one or more slots along an outer peripheral edge thereof and wherein the slots of the recessed surface receive the tabs of the signage member to hold the signage member in position.

15. The guard of claim 13, wherein the guard section has one or more tabs along an outer peripheral edge of the recessed surface that are configured to overly an outer peripheral edge of the signage member to hold the signage member in place.

16. The guard of claim 13, wherein the guard section has one or more channels along an outer peripheral edge of the recessed surface that are configured to allow an outer peripheral edge of the signage member to be slid or flexed into the channels.

17. The guard of claim 12, wherein the complementary portions of the joint allow the guard sections to be coupled together to form a corner or in a straight line.

18. (withdrawn) The guard of claim 12, wherein the complementary sections of the joint allow the guard section to be arranged at any angle between and including 90° and a straight line.

19. The guard of claim 12, wherein the complementary joint sections comprise a projection on one guard section and a recess in another guard section.

20. (withdrawn) The guard of claim 18, wherein the complementary joint sections comprise a pivotal connection.

21. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections, each section having top and bottom portions disposed between front and back portions and being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping; the guard sections each having a complementary portion of a joint for coupling the sections together;

wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member; and

wherein the modular guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section.

22. (withdrawn) The guard of claim 12, wherein the joint comprises a joint member coupled to adjacent guard sections, the joint comprising a live hinge.

23. The guard of claim 12, wherein the joint comprises a fixed corner section providing a 90° corner, the fixed corner section being removable to allow adjacent guard sections to connect with each other in an in-line configuration.

Claim 24 (canceled).

25. A guard for protecting the sides of a pallet on which goods can be stacked or a merchandise grouping placed on a support surface, the guard comprising:

a plurality of modular guard sections having top and bottom portions disposed between front and back portions, each section being couplable to an adjacent section to surround at least a portion of the perimeter of a pallet or merchandise grouping; the guard sections each having a complementary portion of a joint for coupling the sections together;

wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member;

wherein each guard section has a substantially wedge or triangular shape in cross section to increase the stability of the pallet guard section; and

wherein the modular guard sections have a rear face facing the pallet or merchandise grouping that is vertically oriented when the guard is arranged on a support surface, and a front surface that is slanted such that a distance between the front and rear surface at the bottom is greater than the distance between the front and rear surface at the top.

26. The guard of claim 21, further comprising a detent mechanism for holding the two telescoping members in a detented relationship when a desired adjustment of the length has been attained.

27. A guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, the guard comprising:

at least one guard section to cover the face side or sides of a pallet or merchandise grouping, each guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section.

28. The guard of claim 27, wherein each section is modular and couplable to an adjacent section.

29. The guard of claim 28, wherein the guard sections each having a complementary portion of a joint for coupling the sections together.

30. The guard of claim 27, further wherein at least one of the guard sections has an outwardly facing surface having an area for the receipt of a removable signage member.

31. A guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, the guard comprising:

at least one guard section to cover the face side or sides of a pallet or merchandise grouping, each guard section having top and bottom portions disposed between front and back portions, the bottom portion being wider than the top portion making each modular guard section substantially wedge or triangular shape in cross section to increase the stability of the guard section; and

wherein the guard sections each comprise at least two telescoping members to allow adjustability of the length of a guard section.

32. The guard of claim 29, wherein the complementary portions of the joint allow the guard sections to be coupled together to form a corner or in a straight line.

33. (withdrawn) The guard of claim 32, whereir. the complementary sections of the joint allow the guard section to be arranged at any angle between and including 90° and a straight line.

34. (withdrawn) The guard of claim 27, wherein the section is attachable to a merchandise rack or stanchion of a merchandise rack.



35. (withdrawn) A guard for protecting a face side or multiple face sides of a pallet on which goods can be stacked or merchandise groupings placed on a support surface, the guard comprising:

at least one guard section to cover the face side or face sides of a pallet or merchandise grouping and wherein the guard section has an attachment member for attaching the guard section to a merchandise rack or stanchion of a merchandise rack.